

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
THE CAMRAN CORPORATION,

Appellant,

vs.

PUGET SOUND AIR POLLUTION
CONTROL AGENCY,

Respondent.

PCHB No. 109

ORDER DISMISSING APPEAL
FOR LACK OF JURISDICTION

Notice of Appeal was filed herein on April 24, 1972 by The Camran Corporation.

The Camran Corporation urged in its appeal that Resolution 141 was unjust and unlawful on six grounds:

a. Resolution 141 is in violation of the Washington Clean Air Act, Section RCW 70.94.040.

b. Resolution 141 is an implementation of Engrossed Substitute House Bill #47 passed at the 1972 special session of the Legislature. The Resolution is not in conformance with the

intent of HB #47 as clearly stated by Governor Daniel J. Evans in his February 25 partial veto message to the House of Representatives.

c. The Resolution is not in conformance with the policy of the Puget Sound Air Pollution Control Agency Regulation 1 as stated by Section 1.01.

d. The Resolution does not conform to its own Statement of Policy as stated by Section 2a of the Resolution.

e. The Resolution is a breach of faith with those private companies who have expended large amounts of capital and technical effort in assisting in the solution of the disposal of vegetation and land clearing debris with minimum harm to the environment.

f. Through allowing return of the uncontrolled open burn, this Resolution has done a great financial harm to The Camran Corporation, its employees, its suppliers and to local economic development efforts, through elimination of the market for the new, smokeless Camran Air Curtain Combustion Unit.

The Pollution Control Hearings Board questioned whether the adoption by the Puget Sound Air Pollution Control Agency of Resolution 141 and the amendments to Regulation 1 constituted such an "order or decision" as could be appealed to the Pollution Control Hearings Board, and asked for briefs on that question.

Counsel for both The Camran Corporation and the Puget Sound Air Pollution Control Agency submitted briefs May 24 and 25, 1972. After carefully considering the briefs, the Pollution Control Hearings Board is satisfied that the adoption of Resolution 141 and the implementary

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1 amendments of Regulation 1 are not appealable to the Pollution Control
2 Hearings Board.

3 The Washington Clean Air Act makes a clear distinction between
4 orders and decisions of Pollution Control Agency and its adoption of
5 regulations and the amendments thereto.

6 In outlining the powers of the Pollution Control Agencies, the
7 Legislature authorizes the adoption of regulations, and their amendment
8 and repeal, and makes no suggestion of any right of review. (RCW
9 70.94.441(1))

10 However, the same section in subsection (3), when it speaks of
11 "orders by the Agency or its control officer," makes them subject to
12 the Rights of Appeal as provided in Chapter 62, Laws of 1970, 1st
13 Ex. Sess. (The Act which created the Pollution Control Hearings
14 Board.)

15 The Pollution Control Hearings Board does not presume to pass on
16 the merits of the appellant's contentions as to propriety or validity
17 of Resolution 141 adopted by the Puget Sound Air Pollution Control
18 Agency, but being a Board of expressly limited jurisdiction, and
19 believing itself to be without jurisdiction to hear the aforesaid
20 appeal of The Camran Corporation, dismisses the same for lack of
21 jurisdiction.

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1 SIGNED at Olympia, Washington this 28th day of June, 1972.

2 POLLUTION CONTROL HEARINGS BOARD

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4 MATTHEW W. HILL, Chairman

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6 JAMES T. SHEEHY, Member

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8 WALT WOODWARD, Member

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